

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**DENNIS WAYNE HAMILTON,**

**Defendant**

Civil Action No.

Jury Trial Demanded

**COMPLAINT**

Plaintiff Securities and Exchange Commission (“the Commission”) alleges:

**SUMMARY OF THE ACTION**

1. Dennis Wayne Hamilton violated the federal securities laws by using inside information to trade in the stock of his employer, Harman International Industries, Inc. (“Harman”), a Connecticut-based publicly-traded company.

2. As Harman’s vice president of tax, Hamilton has had regular and routine access to Harman’s confidential nonpublic financial information, including Harman’s quarterly earnings figures prior to their public announcement.

3. In the fall of 2013, Hamilton used Harman’s quarterly earnings figures for the first quarter of fiscal year 2014, ended September 30, 2013, to purchase Harman stock the day before Harman publicly announced particularly strong quarterly earnings. As a result of this trading, Harman netted a total profit over \$130,000 when Harman’s stock price jumped 12% the day of the announcement.

4. Defendant Hamilton knowingly or recklessly engaged in the conduct described in this Complaint, violating Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. Unless enjoined, he will continue to violate Section 10(b) and Rule 10b-5.

### **JURISDICTION AND VENUE**

5. The Commission brings this action pursuant to Sections 21(d) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u-1] to enjoin such acts, practices, and courses of business, and to obtain disgorgement, prejudgment interest, civil money penalties, and such other and further relief as the Court may deem just and appropriate.

6. This Court has jurisdiction over this action pursuant to Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa].

7. Venue in this District is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the acts, practices, and courses of business constituting the violations alleged herein occurred within the District of Connecticut. Defendant Hamilton also resides within the District of Connecticut.

### **DEFENDANT**

8. Dennis Wayne Hamilton, age 45, resides in Norwalk, Connecticut. Hamilton holds an undergraduate degree in accounting and a master's degree in taxation. He is licensed as a Certified Public Accountant in Colorado.

9. He has served as Harman's vice president of tax since early 2009.

### **RELEVANT ENTITY**

10. Harman is headquartered in Stamford, Connecticut, and designs, manufactures, and markets high fidelity audio products and electronic systems for the infotainment, automotive audio, home audio, and professional markets.

11. Harman's stock is listed on the New York Stock Exchange (HAR).

### **FACTS**

12. Hamilton has worked for Harman for approximately seven years, serving as Harman's vice president of tax throughout this period.

13. Throughout his tenure as Harman's vice president of tax, Hamilton has reported directly to Harman's chief financial officer and has been deeply involved in the preparation of Harman's earnings announcements.

14. As a result of his position with Harman, Hamilton was entrusted with access to Harman's confidential financial information and had a duty not to share this information or use it to benefit himself. He has been among the first employees to view Harman's quarterly and annual earnings and has been responsible for preparing the chief executive officer and CFO for conference calls with investors after Harman periodically released its earnings.

15. Hamilton also regularly attended meetings of Harman's audit committee that were held after the close of each fiscal quarter. At these meetings, the audit committee received drafts of Harman's not-yet-announced earnings releases and other nonpublic information.

**A. Harman Expressly Prohibited Insider Trading**

16. Harman had a written insider trading policy that it distributed to Harman employees, including Hamilton.

17. The policy prohibited any employee from trading in Harman securities while in possession of material nonpublic information. The policy defined material nonpublic information to include, among other items, unpublished financial results and projections and earnings estimates.

18. The policy required that Harman insiders like Hamilton request and receive pre-clearance from Harman's general counsel prior to trading in Harman securities.

19. The policy also restricted certain directors, officers, and other employees, including Hamilton, from trading during defined periods of time preceding and following Harman's quarterly and annual earnings reports.

20. Harman also distributed to its employees a code of conduct, which contained an insider trading section that reiterated that employees were prohibited from trading when in possession of material, nonpublic information.

21. On his first day of employment, Hamilton signed an acknowledgement that he had received, reviewed, and understood Harman's code of conduct.

22. Harman regularly reminded its employees, including Hamilton, of Harman's policy prohibiting insider trading, and sent periodic emails announcing the opening and closing

of trading windows, repeating the requirement that trading in Harman securities must be pre-cleared by the general counsel, and reiterating that employees were prohibited from trading while in possession of material nonpublic information.

**B. Hamilton's Illegal Trading**

23. On October 18, 2013, Hamilton received a draft of Harman's Form 10-Q for the first quarter of fiscal year 2014, ended September 30, 2013, for his review and comment.

24. The draft 10-Q showed that, for the three-month period ended September 30, 2013, Harman's net sales were \$1,171,805,000, 17% higher than net sales for the same three-month period the previous year.

25. The draft 10-Q also reflected an increase in net sales, compared to the same three-month period the previous year, in each of Harman's three business segments: Infotainment (14.1% increase), Lifestyle (14.7% increase), and Professional (37.4% increase).

26. On October 24, 2013, Hamilton received a draft earnings release announcing earnings for the three-month period ending September 30, 2013. Hamilton was invited to discuss this draft earnings release on a conference call that morning with other Harman employees. The draft earnings release announced that for that period net sales were "up 17% to 1.172 billion," and that Harman's CEO was "pleased that all three of [Harman's] divisions reported double-digit top line growth in the quarter."

27. The following Monday, October 28, 2013, at 2:00 p.m., Hamilton participated in a teleconference meeting of Harman's audit committee. The purpose of the meeting was to review the draft earnings press release and draft 10-Q.

28. Two days later, on Wednesday, October 30, 2013, Hamilton spent over \$1.2 million to purchase 17,000 shares of Harman stock, using a brokerage account he shared with his wife.

29. Hamilton never requested permission from Harman's general counsel to make this purchase. Moreover, Hamilton was expressly prohibited from making this purchase because he was in possession of material, nonpublic earnings information, and this purchase occurred during

a period where Harman's employees were not permitted to trade Harman stock at all.

30. Harman's share price closed at \$72.02 on October 30.

31. The next day, on October 31, 2013, at 8:00 a.m., Harman announced its financial results for the three-month period ending September 30, 2013. After this announcement, Harman's share price jumped to \$81.02 at the close of October 31, 2013, representing an increase of more than 12% over the closing price the previous day.

32. Through a series of trades that day Hamilton liquidated his Harman position, realizing a one-day profit of \$131,958.62.

**C. Hamilton Violated Harman's Insider Trading Policy**

33. While he was employed by Harman, Hamilton agreed to follow Harman's code of conduct, including its clear and detailed insider trading policy. That policy explicitly forbade Harman personnel from trading in Harman's securities while in possession of material nonpublic information, and expressly defined such information to include unpublished financial results.

34. During the relevant period, Hamilton knew of Harman's securities trading policy.

**D. Hamilton Violated The Federal Securities Laws**

35. As an officer of Harman, Hamilton owed a fiduciary duty to Harman's shareholders and was obligated not to misuse Harman's material nonpublic information for his own benefit.

36. Hamilton knew or recklessly disregarded that he owed a duty of trust and confidence to Harman to keep its information confidential and to refrain from trading on it.

37. Harman treated its information, particularly its earnings data, as confidential, and established policies and procedures designed to protect such information and to prohibit its employees from trading on such information.

38. In breach of this duty of trust or confidence, Hamilton used the material nonpublic information he acquired from Harman relating to Harman's earnings by purchasing Harman shares on the basis of that information.

39. Hamilton knew or was reckless in not knowing that the information he acquired relating to Harman's earnings was nonpublic and material. Moreover, a reasonable investor would have viewed this information as being important to his investment decision and/or significantly altering the total mix of information available to the public.

40. Members of the investing public who sold Harman stock at the same time as Hamilton's purchase were harmed by Hamilton's conduct because he unlawfully gained an advantage through his use of inside information.

### **CLAIM FOR RELIEF**

#### **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

41. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 40, inclusive, as if they were fully set forth herein.

42. By engaging in the conduct described above, Defendant Hamilton, knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by the use of means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

- (a) employed devices, schemes, or artifices to defraud;
- (b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or
- (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

43. By engaging in the foregoing conduct, Defendant Hamilton violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court enter a final

judgment:

**I.**

Permanently restraining and enjoining Defendant Hamilton from, directly or indirectly, violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];

**II.**

Ordering Defendant Hamilton to disgorge the unlawful trading profits derived from the activities set forth in this Complaint, together with prejudgment interest;

**III.**

Ordering Defendant Hamilton to pay civil penalties up to three times the profits made pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1];

**IV.**

Granting such other and further relief as this Court may determine to be just and necessary.

Respectfully submitted,

SECURITIES AND EXCHANGE COMMISSION

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